

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

CAPITAL POWER CORPORATION,)		
ET AL.,)		
)		
Petitioners)		
)	CASE NOS.	23-1134
v.)		23-1135
)		23-1136
)		CONSOLIDATED
FEDERAL ENERGY REGULATORY)		
COMMISSION,)		
)		
Respondent.)		

NON-BINDING STATEMENT OF ISSUES

In accordance with this Court’s procedural order dated May 25, 2023, Petitioners in Case No. 23-1134 hereby submit the following preliminary, non-binding statement of issues presented for review:

1. Whether the Federal Energy Regulatory Commission (Commission) erred by finding that transmission owners in the Midcontinent Independent System Operator, Inc. (MISO) region satisfied the procedural requirements under the applicable agreement to authorize MISO to file with the Commission to revise Schedule 2 of its Open Access Transmission, Energy and Operating Reserve Markets Tariff (Tariff).

2. Whether the Commission erred by not addressing generation owners' unequivocal right to file and collect compensation as provided in Schedule 2 of the MISO Tariff.
3. Whether the Commission erred by not addressing the arguments that factually distinguished the Commission's comparability precedent.
4. Whether the Commission erred when it ruled that transmission owners met their burden to show that eliminating reactive compensation is just and reasonable and not unduly discriminatory and preferential.
5. Whether the Commission erred by granting a waiver of its regulations to allow an effective date of December 1, 2022, for the Tariff filing and by not suspending the effectiveness of the Tariff filing for five months as provided in the Federal Power Act.
6. Whether the Commission erred by relying on conclusory statements to accept the Tariff filing.
7. Whether the Commission erred by failing to take into account and address the consequences and total effect of accepting the Tariff filing.

Respectfully submitted,

/s/ Bruce A. Grabow

Bruce A. Grabow

Jennifer Brough

LOCKE LORD LLP

701 8th Street, N.W., Suite 500

Washington, DC 20001

Telephone: (202) 220-6991

Facsimile: (202) 220-6945

bgrabow@lockelord.com

jbrough@lockelord.com

*Counsel for Case No. 23-1134
Petitioners*

Dated: June 26, 2023

CERTIFICATE OF SERVICE

Pursuant to Rule 25 of the Federal Rules of Appellate Procedure and the Circuit Rules, I hereby certify that have this 26th day of June, 2023, served a copy of the foregoing document electronically through the Court's CM/ECF system on all registered counsel.

Respectfully submitted,

/s/ Jennifer Brough
Jennifer Brough